

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
APRIL 7, 2009  
7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Bennett, Brindle, Housh, Swenson and Mayor Hovland.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Brindle and seconded by Member Bennett approving the Council Consent Agenda with the exception of Item V.F., Resolution No. 2009-37 setting hearing date for St. John's Park Neighborhood Street Reconstruction Improvement Project.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

**\*MINUTES - REGULAR MEETING OF MARCH 17, 2009 APPROVED** Motion made by Member Brindle and seconded by Member Bennett approving the minutes of the Regular Meeting of March 17, 2009.

Motion carried on rollcall vote – five ayes.

**PUBLIC HEARING HELD ON SEWER BACKUP INSURANCE – RESOLUTION NO. 2009-42 APPROVED** Affidavits of Notice presented and ordered placed on file.

Manager Hughes advised that Council scheduled a public hearing tonight related to the February 19, 2009, watermain fracture on Wooddale Avenue that surcharged the sanitary sewer and to consider sewer backup insurance program. Staff contacted Christopher Gross Consulting to prepare a general feasibility report on the viability of a long-term sewer backup insurance program modeled after the League of Minnesota Cities policy. That analysis indicated such a program likely would be feasible, and the annual cost would be \$100,000 per year, which could be funded by an upcharge of \$6.50 per utility customer. To start the program, an initial pool would be created by a \$75,000 infusion from the City plus a charge of \$13 per utility billing. Outstanding claims as of April 7, 2009, would have to be accommodated from a different source of money.

The Council asked questions of Mr. Hughes and discussed the feasibility of such a program.

Mayor Hovland opened the public hearing at 7:11 p.m.

**Public Testimony**

Meg Newell, 6008 Wooddale Avenue, addressed the Council on behalf of several of her neighbors including Carl Shannon of 5945 Kellogg Avenue, Jan Rife of 6004 Wooddale, and Laura Ericksen of 6037 Wooddale.

James Quinn, 6020 Wooddale Avenue, addressed the Council.

Heather Nelson, 6025 Wooddale Avenue, addressed the Council.

**Member Swenson made a motion, seconded by Member Housh, to close the public hearing.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

The Council asked questions of Attorney Knutson and Mr. Hughes and discussed the feasibility of creating a program for water and/or sewer backup insurance.

## Minutes/Edina City Council/April 7, 2009

Member Brindle made a motion, seconded by Member Bennett, to direct staff to examine in greater detail the establishment of a self-insurance program as per page seven of the consultant's analysis. Included in the coverage would be: Sewer backup structural damage and cleanup costs caused by an obstruction or malfunction in city sewer system or swamping of systems due to problems with city water systems. Excluded from coverage: costs for which the property owner has been reimbursed or is eligible to be reimbursed by any homeowner's or other property insurance; damage due to obstructions in the service line on the homeowner's property; cleaning of rugs, furniture, and personal items; damage caused as a result of natural flooding events such as excessive rainfall or snow melt swamping sewer systems; or, claims from February 19th water main break.

Ayes: Bennett, Hovland

Nays: Housh, Swenson, Brindle

Motion failed.

The Council discussed the disposition of the Wooddale Avenue event and asked questions of Engineer/Public Works Director Houle and Mr. Hughes.

**Member Bennett introduced Resolution No. 2009-42 Providing for Reimbursement for Damages to Residences as a Result of Backup of Sanitary Sewer System by a Surcharge from Water Main Break.** Member Swenson seconded the motion for discussion purposes.

Mr. Hughes read Resolution 2002-12 and the Council discussed the motion on the floor. Mr. Hughes advised of the process that would be followed to process claims.

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

### **PUBLIC COMMENT – COTES POND PETITION ACCEPTED**

Bob Mockenhaupt, Long Brake Trail, addressed the Council regarding the poor water quality of Cotes Pond due to slow stream navigation and high phosphorous loading, and presented a petition in support of a restoration project.

The Council asked questions of Mr. Mockenhaupt and Mr. Houle.

John Retherford, 7606 Delaney Boulevard, addressed the Council.

Greg Mesna, 5701 Long Brake Trail, addressed the Council.

Fred Green, 5723 Long Brake Trail, addressed the Council.

Ben Steinberg, 5719 Long Brake Trail, addressed the Council.

Alice Kaiser, 7734 Lochmere Terrace, addressed the Council representing neighbors.

Janet Moberg, 5727 Long Brake Trail, addressed the Council.

**Member Swenson made a motion, seconded by Member Housh, to accept the petition and refer the matter to the Engineering Department for report by the first meeting in June, 2009.**

Ayes: Bennett, Brindle, Housh, Swenson, Hovland

Motion carried.

The Council agreed with the request of Mayor Hovland to next consider Item V.A., Nine Mile Creek Regional Trail Presentation.

### **NINE MILE CREEK REGIONAL TRAIL – UPDATE INFORMATION PRESENTATION RECEIVED**

Jonathan Vlaming, Planning Manager for Three Rivers Park District, described the trail history,

past Council action to accept the trail corridor, trail projects within Edina and neighboring communities, and Edina planning methods. Mr. Vlaming reported the input gathered from the open houses. Over 250 people attended the March open house, providing 412 individual written comments, of which 42% supported the proposed trail and 10% opposed it. Of the 96 formal comment cards completed at the open house (approximately one per household), 51% supported the proposed trail and 18% opposed it. He advised of the upcoming environmental assessment for each segment and five choices open for the Council's determination.

Mayor Hovland was excused from the meeting at 9:00 p.m. Mayor Pro Tem Housh chaired the remainder of the meeting.

John Borg, 6612 Limerick Drive, addressed the Council on behalf of the Nine Mile Creek Preserve and Nine Mile Task Force. Mr. Borg expressed concern with environmental impacts and spending priorities.

Kurt King, 6800 Brook Drive, addressed the Council.

Laurie Chapman, 6420 Aspen Road, addressed the Council.

James Moe, 6519 Creek Drive, addressed the Council.

Jerry Noyce, 6532 Creek Drive, addressed the Council.

Peter McCarthy, 6801 Brook Drive, addressed the Council.

**AWARD OF BID – RECYCLING CONTRACT** Recycling Coordinator Wilmot described the curbside two-stream recycling program and advised of the activities of the Solid Waste Work Group and Ad Hoc Committee to review the request for proposals. Ms. Wilmot presented the Committee's recommendation to award the recycling contract to Allied Waste, the low bidder. She thanked all who served on the Solid Waste Work Group and Ad Hoc Committee as well as the haulers who allowed tours of their facilities and RFP submittals.

Dan Krivit, Foth Infrastructure and Environment LLC, commended Edina for its comparison process and provided a summary of the economic analysis and three-year net contract cost.

The Council asked questions of Mr. Krivit and Ms. Wilmot about the analysis and contract requirements.

**Member Bennett made a motion, seconded by Member Swenson, awarding the bid for residential recycling collection services to the recommended low bidder, Allied Waste at \$1,390,000.**

Ayes: Bennett, Brindle, Housh, Swenson  
Motion carried.

**\*AWARD OF BID – PREPARE AND PAINT WATERSLIDE STRUCTURE – EDINA AQUATIC CENTER** Motion made by Member Brindle and seconded by Member Bennett awarding the bid for preparation and painting waterslide structure, Edina Aquatic Center, to the recommended low bidder, American Sandblasting, Inc. at \$29,500.00.

Motion carried on rollcall vote – five ayes.

**\*AWARD OF BID – ICE RESURFACING MACHINE – BRAEMAR ARENA** Motion made by Member Brindle and seconded by Member Bennett awarding the bid for ice resurfacing machine, Braemar Arena, to the recommended low bidder, Zamboni Company at \$109,186.75 plus sales tax.

Motion carried on rollcall vote – five ayes.

**\*AWARD OF BID – COMMODITIES PURCHASE – SAND, ROCK, BITUMINOUS MATERIALS, CONCRETE AND ENGINE OIL, AND WATER TREATMENT CHEMICALS** Motion made by Member Brindle and seconded by Member Bennett awarding the bid for April 1, 2009 to March 31, 2010 commodities of sand, rock, bituminous materials, concrete, engine oil and water treatment chemicals to the recommended low bidders as follows: Coarse Washed Sand Delivered to SA-AG at \$7.00 per ton; Cl.2 Limestone Delivered to Bryan Rock at \$14.37 per ton; FA-2 Seal Coat Chips Delivered to Kramer Mining & Materials at \$27.40 per ton or to alternate bidder Dresser Trap Rock Inc. at \$38.10 per ton; \*Asphalt 2350 Base Type 31 or 32 Delivered to Midwest Asphalt at \$55.25 per ton; or to alternate bidder Bituminous Roadways at \$56.00 per ton; \*Asphalt 2350 Base Type 31 or 32 Picked Up at Plant to CS McCrossen at \$39.00 per ton or to alternate bidder Bituminous Roadways at \$47.50 per ton; \*Asphalt 2350 Base Type 41 or 42 Delivered to Midwest Asphalt at \$59.25 per ton or to alternate bidder Bituminous Roadways at \$58.00 per ton; \*Asphalt 2350 Base Type 41 or 42 Picked Up At Plant to CS McCrossen at \$45.00 per ton or to alternate bidder Bituminous Roadways at \$49.75 per ton; \*Asphalt 2350 Wear Type 41 or 42 Delivered to Midwest Asphalt at \$55.25 per ton or to alternate bidder Bituminous Roadways at \$56.35 per ton; \*Asphalt 2350 Wear Type 41 or 42 Picked Up At Plant to CS McCrossen at \$44.00 per ton or to alternate bidder Bituminous Roadways at \$47.85 per ton; \*Asphalt 2360 Wear Type 31 or 32 Delivered to Midwest Asphalt at \$59.25 per ton or to alternate bidder Bituminous Roadways at \$71.75 per ton; \*Asphalt 2360 Wear Type 41 or 42 Picked Up At Plant to CS McCrossen at \$45.00 per ton or to alternate bidder Bituminous Roadways at \$55.50 per ton; Concrete 3 + yards (delivered) to AVR at \$118.00 per CY; Emulsified Asphalt CRS2 Picked Up At Plant to Flint Hill Resources at \$1.73 per gallon; Emulsified Asphalt CRS2-P Delivered to Flint Hill Resources at \$2.09 per gallon; Emulsified Tack Oil Picked Up At Plant to Flint Hill Resources at \$1.84 per gallon; Crack Joint Sealer #3725 Delivered to Brock White at \$.56 per pound; \*\*Hydrofluosilicic Acid to Hawkins, Inc., at \$38.57 per CWT; \*\*Liquid Chlorine to Hawkins, Inc., at \$36.00 per CWT; \*\*Water Treatment Chemical (Poly) to Hawkins, Inc., at \$6.83 per gallon; Tonkazorb 3% to Hawkins Inc., at \$7.25 per gallon; Caustic Soda to DPC Industries at \$33.99 per CWT; Manhole Covers – Complete Casting to Ess Brothers & Sons, Inc., at \$964.00 each; Red Ball Aggregate to Bryan Rock at \$18.45 per ton; Lannon Stone Wall Repair to Blackstone Contractors at \$24.00 per square foot. (\*These items are awarded on basis of total cost per ton including trucking and labor, and past year's performance. \*\*These items are awarded together as a tied bid.)

Motion carried on rollcall vote – five ayes.

**ORDINANCE NO. 2009-2 ADOPTED – AMENDING SECTION 140 HUMAN RIGHTS AND RELATIONS COMMISSION** Mr. Hughes stated the Council requested amendments had been made to the proposed ordinance since first reading was granted. The Council discussed the membership size and determined to have nine instead of seven and struck language related to the commission appointing an ex-officio student to maintain consistency. **Member Swenson made a motion, seconded by Member Bennett, to waive Second Reading adopting Ordinance No. 2009-2, Amending the City Code Concerning the Human Rights and Relations Commission as amended to have nine members and strike wording on Page 2, Section 140.04 Membership, indicating, “The Commission may appoint an ex-officio youth member to the Commission to participate in all discussions.”**

Ayes: Bennett, Brindle, Housh, Swenson  
Motion carried.

**TOWN HALL MEETING SCHEDULED** The Council discussed available dates and format for the next Town Hall meeting. **Member Bennett made a motion, seconded by Member Brindle, to schedule the Town Hall meeting for Tuesday, July 28, 2009, from 7:00 p.m. to 8:30 p.m. at a location to be researched by Mr. Hughes.**

Ayes: Bennett, Brindle, Housh, Swenson  
Motion carried.

**ENERGY & ENVIRONMENT COMMISSION MEMBERS APPOINTED** Mayor Pro Tem Housh presented the recommendation of Mayor Hovland for appointments to the Energy & Environment Commission. **Member Swenson made a motion, seconded by Member Brindle, to endorse Mayor Hovland's appointments of Michael Platterer, Steve Christianson, and Jeannie Hanson to the Energy & Environment Commission with terms to expire February 1, 2012.**

Ayes: Bennett, Brindle, Housh, Swenson  
Motion carried.

**RESOLUTION NO. 2009-36 APPROVED ACCEPTING VARIOUS DONATIONS** Mayor Pro Tem Housh explained that in order to comply with State Statutes; all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations. **Member Swenson introduced Resolution No. 2009-36 accepting various donations.** Member Bennett seconded the motion.

Rollcall:  
Ayes: Bennett, Brindle, Housh, Swenson  
Motion carried.

**RESOLUTION NO. 2009-37 APPROVED SETTING MAY 5, 2009, HEARING DATE FOR ST. JOHN'S PARK NEIGHBORHOOD STREET RECONSTRUCTION IMPROVEMENT PROJECT** The Council discussed the importance of having a full Council present when the street reconstruction projects are considered. **Member Swenson introduced Resolution No. 2009-37 Set Public Hearing of May 5, 2009 and Receive Feasibility Study for St. Johns Park Neighborhood Street Reconstruction Improvement No. BA-357.** Member Bennett seconded the motion.

Ayes: Bennett, Brindle, Housh, Swenson  
Motion carried.

**ORDINANCE NO. 2009-06 GRANTED FIRST READING – AMENDING SECTION 460 SIGN ORDINANCE REGARDING SIGNS IN THE REGIONAL MEDICAL AND PLANNED OFFICE DISTRICT** Planner Teague advised of staff's research on way-finding signage for Regional Medical and Office districts and presented the proposed ordinance amendments to increase allowable address signage and allow both free standing and wall signage. Additional tenant signage was not recommended for multi-use buildings. Mr. Teague reviewed the signage variances that had been approved in the past and recommended granting First Reading.

The Council asked questions of Mr. Teague and asked staff to provide visual samples prior to consideration of Second Reading.

**Member Swenson made a motion to grant First Reading of Ordinance No. 2009-06 amending the City Code concerning signs. Member Bennett seconded the motion**

Ayes: Bennett, Brindle, Housh, Swenson  
Motion carried.

**\*RESOLUTION NO. 2009-38 APPROVED "NO PARKING" NORMANDALE ROAD & BENTON AVENUE** Motion made by Member Brindle and seconded by Member Bennett to adopt Resolution No. 2009-38 Relating to Parking Restrictions on S.A.P. No. 120-010-011, Normandale Road and S.A.P. No. 120-146-05, Benton Avenue.

Motion carried on rollcall vote – five ayes.

**\*RESOLUTION NO. 2009-39 APPROVED MNDOT LIMITED USE PERMIT FOR WEST FRONTAGE ROAD PATHWAY AT BENTON AVENUE** Motion made by Member Brindle and seconded by Member Bennett to adopt Resolution No. 2009-39, City of Edina Limited Use Permit with the State of Minnesota Department of Transportation for a Pedestrian Trail in the Right-of-Way of TH 100 At Benton Avenue, S.A.P. Nos. 120-010-011 and 120-146-005.

**Minutes/Edina City Council/April 7, 2009**

Motion carried on rollcall vote – five ayes.

**\*CONFIRMATION OF CLAIMS PAID** Motion made by Member Brindle and seconded by Member Bennett approving payment of the following claims as shown in detail on the Check Register dated March 19, 2009, and consisting of 33 pages: General Fund \$402,680.36; Communications Fund \$8,616.21; Working Capital Fund \$18,922.71; Art Center Fund \$3,123.40; Golf Dome Fund \$28,513.43; Aquatic Center Fund \$847.93; Golf Course Fund \$30,036.36; Ice Arena Fund \$34,434.41; Edinborough/Centennial Lakes Fund \$11,315.58; Liquor Fund \$261,199.45; Utility Fund \$49,389.90; Storm Sewer Fund \$32,033.05; PSTF Agency Fund \$317.40; **TOTAL \$881,430.19** and for approval of payment of claims dated March 26, 2009, and consisting of 29 pages: General Fund \$129,981.67; Communications Fund \$1,744.24; Working Capital Fund \$36,953.91; Art Center Fund \$3,886.13; Golf Dome Fund \$549.59; Aquatic Center Fund \$3,411.51; Golf Course Fund \$53,441.01; Ice Arena Fund \$1,445.02; Edinborough/Centennial Lakes Fund \$14,526.29; Liquor Fund \$139,536.24; Utility Fund \$48,499.02; Storm Sewer Fund \$9,900.00; Recycling Fund \$37,077.90; PSTF Agency Fund \$23,164.01; **TOTAL \$504,116.54** and for approval of payment of claims dated April 2, 2009, and consisting of 30 pages: General Fund \$71,913.73; Communications Fund \$22,693.08; Working Capital Fund \$113,561.13; Art Center Fund \$25,142.55; Golf Dome Fund \$867.75; Aquatic Center Fund \$1,855.19; Golf Course Fund \$49,626.27; Ice Arena Fund \$24,418.33; Edinborough/Centennial Lakes Fund \$33,403.47; Liquor Fund \$126,383.58; Utility Fund \$21,046.60; PSTF Agency Fund \$4,185.44; **TOTAL \$495,097.12** and Credit Card Transactions dated January 26, 2009 to February 25, 2009; **TOTAL \$6,385.31**.

Motion carried on rollcall vote – five ayes.

**AMENDMENT TO CONAGRA PURCHASE AGREEMENT APPROVED** Mr. Hughes explained the amendments to the Purchase Agreement to reduce the purchase price from \$8 million to \$7.6 million, extending the finance contingency through April 8, 2009, to acknowledge receipt of the PCA No-Action letter and that no further investigation was required. It also indicated a closing date on the transaction of May 7, 2009.

The Council asked questions of Mr. Hughes and acknowledged staff's vision of the City's future.

**Member Swenson made a motion, seconded by Member Bennett, to approve the second amendment to the ConAgra Purchase Agreement.**

Ayes: Bennett, Brindle, Housh, Swenson

Motion carried.

**BOND SALE APPROVED RESOLUTION NO. 2009-40 SERIES 2009A \$14,000,000 G.O. BONDS APPROVED AND RESOLUTION NO. 2009-41 SERIES 2009B \$2,240,000 G.O. BONDS APPROVED** Mark Ruff, Ehlers & Associates, explained the process involved with the sale of bonds. He presented the eight favorable bids that were received for Series 2009A and recommended the Council approve the draft resolution awarding the sale to RBC Capital Markets at a true interest cost of 3.7867%. Mr. Ruff then presented the eight favorable bids received for Series 2009B, noting the issue size was reduced to \$2,240,000, and recommended the Council approve the draft resolution awarding the sale to Cronin & Company, Inc. at a true interest cost of 1.7929%.

**Member Swenson introduced Resolution No. 2009-40 Authorizing Issuance, Awarding Sale, Prescribing the Form and Details and Providing for the Payment of \$14,000,000 General Obligation Capital Improvement Bonds, Series 2009A.** Member Brindle seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson

Motion carried.

**Member Swenson introduced Resolution No. 2009-41 Authorizing Issuance, Awarding Sale, Prescribing the Form and Details and Providing for the Payment of \$2,240,000 General Obligation Bonds, Series 2009B.** Member Brindle seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Housh, Swenson

Motion carried.

**STAFF DIRECTED TO STUDY FEASIBILITY OF STOP SIGNS** The Council directed staff to study the feasibility of stop signs on the west side of the Benton Avenue bridge to provide for increased safety.

There being no further business on the Council Agenda, Acting Mayor Housh declared the meeting adjourned at 10:25 p.m.

Respectfully submitted,

Minutes approved by Edina City Council, April 21, 2009.

---

Debra A. Mangen, City Clerk

Video Copy of the April 7, 2009, meeting available.

---

James C. Hovland, Mayor